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*Attorneys for Plaintiffs Timothy DuFour and
Kenneth Tanner, on their own behalves
and on behalf of all others similarly situated,*

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

TIMOTHY DuFOUR and KENNETH
TANNER, individuals, on their own behalves
and on behalf of all others similarly situated,

Plaintiffs,

v.

BE., LLC, DYNAMIC SHOWCASES, LLC,
California limited liability companies,
MONTEREY FINANCIAL SERVICES, INC.,
MTS HOLDINGS GROUP, INC., California
corporations, 1901 CO., a Nevada corporation,
BE MARKETING LIMITED, a private limited
company registered in England and Wales,
ERIK DeSANDO, BARRY FALCK, JACOB
STEINBECK, VITALY RASHKOVAN, and
DOES 1-100, inclusive,

Defendants.

No. 09-03770-CRB

Judge Charles R. Breyer

**NOTICE OF MOTION; MOTION FOR
LEAVE TO FILE OVERSIZE BRIEF
PURSUANT TO CIVIL LOCAL RULE 7-
11**

Pursuant to Civil L.R. 7-11, Plaintiffs Timothy DuFour (“DuFour”) and Kenneth Tanner (“Tanner”) hereby move for leave to file an oversize Memorandum of Points and Authorities in support of their Motion for Preliminary Injunction (“Memorandum”).

Plaintiffs’ Memorandum is twenty one (21) pages long, excluding table of content, table of authorities, declarations, and exhibits. Under Civil L.R. 7-2(b), such briefs can be twenty five (25) pages long. Under paragraph 5 of the Court’s Standing Order, however, such briefs are limited to fifteen (15) pages in length. While Plaintiffs have endeavored to be as concise as possible, the Motion’s subject matter, the facts supporting the Motion, and the law supporting the Motion all require more than fifteen pages for Plaintiffs to adequately advocate for their position.

Plaintiffs have not been able to contact all the Defendants, let alone serve them with process. In some cases, Defendants appear to have actively avoided service. For this reason, Plaintiffs were unable to obtain a stipulation under Civil L.R. 7-12. (Preston Decl. ¶ 1.)

Dated: October 8, 2009

By: s/Ethan Preston

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No. 09-03770-CRB

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**DECLARATION OF ETHAN PRESTON
IN SUPPORT OF MOTION FOR LEAVE
TO FILE OVERSIZE BRIEF**

ETHAN PRESTON hereby declares:

1. My name is Ethan Preston. I am over the age of eighteen and am fully
competent to make this declaration. I make this declaration based upon personal knowledge.
Plaintiffs have only successfully served process on Be., LLC, Dynamic Showcases, LLC,

1 Monterey Financial Services, Inc., 1901 Co., and Barry Falck. Plaintiffs have initiated service
2 on Be Marketing Ltd., but have not received proof of service yet. Plaintiffs have not yet served
3 MTS Holdings Group, Inc., Erik DeSando, Jacob Steinbeck, or Vitaly Rashkovan. Plaintiffs
4 and their counsel have not yet been able to locate some of the unserved Defendants, and so
5 cannot have sought their concurrence in the attached Motion.
6

7 2. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the
8 foregoing is true and correct.

9 Dated: October 8, 2009

By: s/Ethan Preston

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